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The Ohio taxation amendment

Columbus, O.

[1903]

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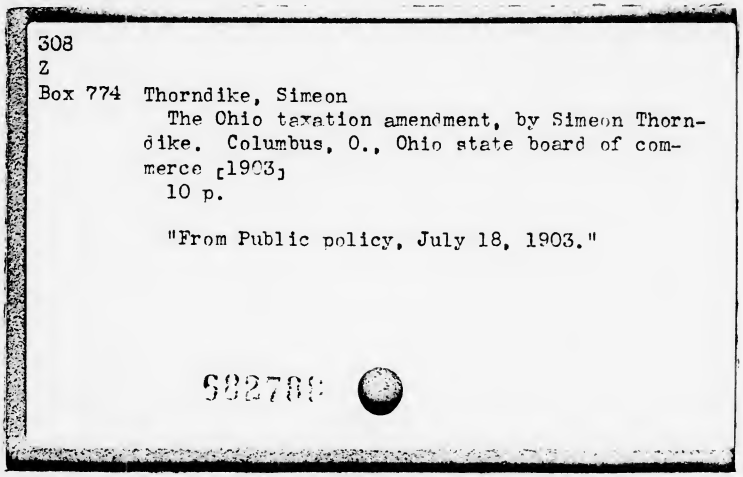
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THE

OHIO TAXATION AMENDMENT

BY

SIMEON THORNDIKE

FROM PUBLIC POLICY, JULY 18, 1903

OHIO STATE BOARD OF COMMERCE
COLUMBUS, OHIO

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THE OHIO TAXATION AMENDMENT.

BY SIMEON THORNDIKE.

Every generation should be at liberty to govern itself according to its own notions of expediency. No one generation is fit to make laws for those which follow it. The inherent rights of life, liberty and pursuit of happiness are not fully enjoyed by those living, if they are compelled to be governed by the laws of those dead and gone before. Conditions of life and municipal government are constantly changing. Our views on any and every subject change from every standpoint. What is believed yesterday is rejected to-day, and what is believed to-day is rejected to-morrow.

A WRONG START.

From 1803 to 1846, a period of 43 years, the state of Ohio had freedom in taxation. It could tax what property it chose and leave untaxed what it deemed best. The legislature was practically supreme on the subject of taxation. In that period the legislature declared the objects of taxation and the extent to which those objects should be taxed. Alfred Kelley in 1846 became

the great apostle of *ad valorem* taxation. As a member of the Senate he framed and put through the legislature a system of taxation of every kind of property and claims. The measure was stoutly resisted and preached against. While it was not a party measure, it was supported by the Whigs generally and resisted by the Democrats. The bill was in the committee of the whole in each house a number of times, and was thoroughly discussed. It passed the Senate by a vote of 17 to 16 and the House by a vote of 37 to 29. That statute has in its general features remained in force till the present time. The exemptions under the statute of 1846 were wonderfully liberal—so very liberal that in two or three years after the passage of the original act, these provisions were repealed.

A WRONG THEORY.

The central idea of the law of 1846 was that everything was to be taxed. All kinds of property was to be fully ascertained and made known to the taxing authorities and then it was to be taxed at a uniform percentage as to its value. The state was to know what each citizen had of moneys, notes, mortgages, stocks, bonds, personal and real property, and its value, and when the property and its value were known the tax was to be levied or assessed at a uniform rate. This was the theory of the plan, and it never got any further than a theory. The plan was to be carried out by making each tax bearer his own assessor. The state assumed that each tax bearer would disclose

all of his property, its value and its debts, on a tax blank, and make that a public record each year for all time. The state required the tax blank to be sworn to, and assumed the tax bearer would, upon oath, tell the exact truth.

The system in theory was perfect, and was fairly and reasonably adapted to the time when it was adopted. However, it began to fail in practice from the start and has failed more signally each year since.

A MISFORTUNE FOR THE STATE.

While the Democrats, in 1846, opposed the Kelley act, in 1851 they engrafted it in the constitution, one of the most unfortunate things ever done in the state. As the system was studied from year to year, tax bearers who were willing to take advantage of the law perceived its great opportunity to enable them to conceal their tangible property. They found they could withhold their money, their notes, their mortgages, their stocks and bonds from taxation, and that the state had no means to compel or enforce their discovery.

Merchants found their own valuations were accepted and manufacturers found the same thing. Tax bearers found the same condition of affairs as in B. C. 1406, when there was no king in Israel. Each one could do what was deemed right in his own eyes. The only ones who could not take advantage of the law were the widows, the orphans, the corporations and banks, and to some extent the latter two classes could strain the law to their own advantage.

WEAKNESS OF THE LAW.

The theory of the law ignored the self-interest of the taxpayer, overlooked the fact that as to intangible property he was his own assessor, and that there was no way to review his action as such.

The theory of the law overlooked the fact that there were as many ideas of value as there were separate assessors. The assessor provided for by law was never the real assessor. He was only nominally such. The real assessor was the tax bearer, whose self-interest dictated to him to avoid taxation to the fullest extent he could.

The nominal assessor was elected each year by the votes of the men who were interested in making their tax burden as light as possible. The nominal assessor, who worked to be re-elected, would not compel the power who gave him the office to return their lists other than they chose.

The board of review were chiefly elected officers, who desired to be re-elected. They did not wish to offend those on whom they were dependent. Hence there is a lax administration of the law everywhere, but at the same time the law was never capable of enforcement. The weak point was that the knowledge of the intangible property and its value was solely within the control of the tax bearer. He could tell it or refrain from telling it. If he kept the knowledge to himself he could save much money in taxes, and money saved was money made. Men can be relied on

to act from self-interest, and tax matters are no exception.

Mr. Kelley's law of 1846 was never capable of enforcement as to intangible property, and never has been enforced. After fifty-seven years' study of his system, its weaknesses have all been discovered and the taxpayers are not slow to take advantage of them. Those of the tax bearers who would like to obey the law do not do so for self-protection. They know that their unscrupulous neighbors avoid the return of their property for taxation and they are compelled to do likewise in order not to pay an undue proportion of the taxes.

HOW TAX EVASION IS MADE NECESSARY.

For example, "A" has $3,000 in credits and knows he can avoid returning them, and does so. "B" has the same amount of credits and is willing to return them. He knows of "A's" credits and knows they are not returned. In order that he may not pay taxes when "A" does not, he withholds his credits, same as "A."

"A" has $3,000 in chattel property and returns it at 22 per cent of its value. "B" has the same amount in value and knows of "A's" and of the per cent at which he returns it. "B," in order not to pay more than his neighbor, returns $3,000 in chattel property, at 22 per cent of its value.

In other words, the conduct of the class of taxpayers like "A" forces the class of taxpayers like "B" to

make the same returns, in order that their tax burdens may be equal.

TAX-DODGERS DON'T WANT THE CONSTITUTION AMENDED.

The tax on intangible property, so far as it affects individuals, is simply a burden on the conscience of the taxpayer. If he has a conscience, he pays taxes. If he has none, he does not pay tax. Alfred Kelley never intended that conscience should be regarded as property and as a subject of taxation, but so it has eventuated. As to personal property, only about 22 per cent is reached. Hence the tax bearer has the opportunity to escape on 78 per centum of his personal property. The privilege of escaping in all of his intangible property and 78 per cent of his personal property is a valuable one, and hence the class of persons disposed to take these advantages are in favor of retaining the present constitutional provisions.

GOVERNED BY EXPLODED IDEAS.

The proposed amendment to the constitution allows the people, through the legislature, to raise taxes in any manner deemed proper. To retain the present provision is to advocate the idea that the persons who formed the constitution of 1851 had the wisdom to make a constitution superior to the wisdom of any who should live for fifty-seven years after. No one believes that any one generation has wisdom and foresight superior to any preceding or succeeding generation. All humanity is cast in a common mold and

has an average. The present generation is superior to the past because it has the benefit of all past experience to guide it. We all recognize that fact. In our clothing, our social intercourse, in our modes of business and living, we live up to the most modern ideas. In our government alone we live by a legacy. We, every year, attempt to carry out ideas we know to be exploded, ideas which modern thought has long since discarded and for which we have no respect whatever. There is a large class who hold by the terms of the present constitution on taxation because they fear to trust the legislature. It was this idea that prevented the Republican state convention of 1903 from adopting a subsidiary resolution, placing the taxation amendment on its party ticket approved. If the legislature cannot be trusted, who can?

WHO ARE HURT AND WHO ARE FAVORED BY THE PRESENT CONSTITUTION.

Will the people of the state bind themselves to a set of exploded ideas and to a system which has failed simply because they cannot trust the legislature? There is something more than this to the reason for sustaining the present constitution.

Under the workings of the laws passed to carry it out there is a practical exemption of all intangible property. The operation of the present system is to throw the burden of taxation on real estate, on visible personal property, on widows, orphans and farmers. The present system favors the creditor class and bears heavily on the debtor class. It bears on the farmer

most heavily of all, because he cannot conceal his crops, his farming utensils, his stock, etc.

A system which places a reward on dishonesty and perjury is bad for the state. It is demoralizing. The attempt to tax moneys and credits is but a threat on the part of the state, and a threat which it cannot carry out. No man in Ohio need pay any taxes on his moneys and credits unless he chooses to. It is not in human nature to pay the state anything which can be escaped. It is not, or should not be the policy of the state to tax all classes of property. Woodland either should not be taxed at all or very lightly. Unproductive real estate should hardly be taxed. Real estate may be very valuable but at the same time unproductive. Yet unproductive real estate must pay according to valuation.

Rental or productive value cannot be considered under our tax system. Only actual value can be considered. Ten thousand dollars' worth of real estate which is unproductive must be taxed at the same rate as real estate of the same value which produces $3,000 per year. Under our system this is unavoidable.

The same is true to some extent of personal property. The proposed amendment would allow the legislature to correct this evil. The *ad valorem* rule cannot justly be applied to all classes of property.

Public policy would require certain classes of property to be exempted for periods of time. Under the present organic law that cannot be done. Under the proposed law it can be done. Under the proposed law

any experiments can be tried. Under the present law, none.

THE EXISTING CONSTITUTIONAL RULE EVADED BY LAW.

The writer believes it best to trust to a future body of legislators rather than to be governed by the ideas extant in 1851. He believes it would be best to have an organic law which is elastic rather than governed by fixed rules, or rather a fixed rule, which cannot be varied or changed. Railroads, telegraph and telephone companies, sleeping car companies, express and freight companies are all governed by special laws as to the assessment for taxes, notwithstanding the constitutional rule. The same is true of banks, business corporations, manufacturers and merchants. We have these exceptions to the constitutional rule. Why not have others? These statutes are a continuation of the constitutional rule and an admission of its failure. These statutes have been adopted as of a necessity. Now why not be free to adopt any plan?

AN ABSURDITY. A GREATER ABSURDITY. THE GREATEST ABSURDITY OF ALL.

The idea of the great state of Ohio being held by its constitution to a single rule and theory of taxation is an absurdity. The idea of not changing that rule after fifty-seven years of its failure is a greater absurdity. The idea of the people of the state failing to adopt the amendment will be the greatest absurdity of all. It will throw the wheels of progress backwards for a quarter of a century. The people who

wish to retain the present one-idea plan are in the condition of the children of Israel at the Red Sea, with the sea in front of them and the hosts of Pharaoh in the rear. They were in a blue funk, and not until God Almighty spoke to them to "Go forward" did they recover courage. These people who stand still with panic need some authority as powerful as God Almighty to tell them to "Go forward."

THE REPUBLICAN CONVENTION IN A BLUE FUNK.

The Republican state convention of 1903 ought to have said, "Go forward," but it was in a blue funk on the taxation amendment, the most important of all. It reflected on the legislature, which, of its own complexion, submitted the amendment, but the real reflection is on the Republican convention. It is to be hoped the Democratic convention will endorse the measure, and that it will in addition receive enough Republican votes to make its adoption by the people certain.

END OF
TITLE